

## **REMARKS**

### **STATUS OF CLAIMS**

Claims 23-25, 27-34 and 36-42 are pending in the present application.

The Applicant has carefully reviewed and considered the Examiner's remarks in the Office Action mailed November 25, 2009. Reconsideration is respectfully requested in view of the comments set forth below.

### **REJECTIONS UNDER 35 U.S.C. § 103(a)**

In the Office Action, claims 23-25, 27-34, and 36-42 were rejected under 35 U.S.C. § 103(a) as being obvious over Fullerton (U.S. Patent No. 4,641,317) in view of Bucan, *et al.* (U.S. Patent No. 5,267,096) and, for claims 25, 34 and 41, Howell (U.S. Patent No. 4,583,232). The Applicants respectfully traverse the rejections.

Under 35 U.S.C. § 103(c) references which qualify "as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title [35 USCS § 102], shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." Here, the Fullerton reference relied upon by the Examiner and the claimed invention were both assigned to Time Domain Corporation at the time the claimed invention was made. Support for this assertion can be found in U.S.P.T.O assignment records (Reels/Frames 015040/0735 and 015581/0822 for the instant application; Reels/Frames 010388/0594, 014079/0130, 014137/0837 and 014146/0576 showing that the interests of all previous assignees in the Fullerton patent were assigned to Time Domain Corporation prior to filing of the instant application). Therefore, the Fullerton reference cannot preclude patentability under 35 U.S.C. 103. Accordingly the Applicants respectfully request the Examiner to withdraw the rejection and allow claims 23-25, 27-34, and 36-42.

**CLAIMS**

In view of the foregoing remarks, the Applicants submit that the claimed invention is neither anticipated or rendered obvious in view of the cited references. The Applicants, therefore, respectfully request reconsideration of this application and the timely allowance of the pending claims.

The Applicants invite the Examiner, however, to contact the undersigned if an interview would advance the prosecution of this application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no 22-0261.

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Respectfully submitted,

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